

# MINUTES

## WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Conference Meeting Room  
Second Floor, Court House  
Boonville, Indiana  
October 24, 2007 at 6:00 P.M.

**MEMBERS PRESENT:** Larry Willis, Chairman of the Board; Duane Erwin, William McCune, Richard Medcalf, and Don Mottley.

Also present were: Jeff Fields, Attorney; Sherri Rector, Executive Director and Secretary; and Susan Hilgeman, staff.

**MEMBERS ABSENT:** Terry Dayvolt and Eric Stahl.

### **MINUTES:**

Mr. Willis asked if everyone got a copy of the minutes from September 26, 2007. He asked if there were any corrections or additions to those minutes. There being none he entertained a motion.

Duane Erwin made a motion to accept the minutes from the September 26, 2007 meeting.

Don Mottley seconded and the motion unanimously carried.

Mr. Willis explained the rules of procedure.

### **SPECIAL USES:**

**BZA-SU-07-24** – Applicant & Owner: Ralin Properties, LLC by Stephen F. Bosley, PE; Vice President.

**Premises** – Property located on the E side of Peachwood Dr. 0' N of the intersection formed by Peachwood Dr. and Fruitwood Dr., Lt 4 in Peachwood of Warrick Place IV and a part of Ohio Twp. 23-6-9, and an addition to Lt 1 in Peachwood of Warrick Place IV, 7498 Peachwood Dr.

**Nature of Case** – Applicant requests a Special Use, SU-23, for the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN, to allow six storage units, an addition to BZA-SU-05-35, approved September 28, 2005, in a “C-3” Highway Commercial and “C-4” General Commercial Zoning District. *Advertised in the Boonville Standard on September 13, 2007. Continued from the September 26, 2007 meeting.*

The Chairman stated he has a conflict of interest and asked Mr. Mottley to take over the chair.

Stephen Bosley approached the podium.

Mr. Mottley called for a staff report.

Mrs. Rector stated they do have all the return receipts from certified mail to the adjacent property owners. She stated the applicant is requesting a special use to allow six storage unit buildings with a total of 168 units. She stated the applicant has also purchased the storage unit buildings to the south and they will be used in conjunction with the proposed storage unit buildings. She stated they've also purchased Lot 4 which will be used for access to the subject property and will also house a proposed building where an office will be located. She stated the property is zoned “C-4” General Commercial with the property to the north being zoned “A” Agriculture and vacant. She stated the property to the east is zoned “A” Agriculture with residences. She stated the property to the south is zoned “C-4” General Commercial with storage units and the property to the west is zoned “C-3” Highway Commercial with commercial businesses. She stated this was continued from the September meeting due to the notices not being sent out. She stated the application is in order.

Mr. Mottley asked for the explanation by the Applicant.

Stephen Bosley stated they are just building 6 mini-storages and they have purchased the mini-storage to the south and it will just make it one mini-storage facility. He stated he will answer any questions the Board might have.

Mr. Mottley asked for any questions by Board Members.

Mr. Erwin asked if the only entrance will be off of Peachwood Drive.

Mr. Bosley stated there is another entrance off the other property.

Mr. Medcalf stated the entrance will be off the other piece of property they've purchased.

Mr. Bosley stated yes.

Mr. Mottley asked for any other questions by Board Members. There being none he asked if there were any remonstrators for or against this petition. There being none he entertained a motion.

William McCune made a motion findings of fact be made as follows:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The specific site is appropriate for the USE.
4. The USE as developed will not adversely affect the surrounding area.
5. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
6. Adequate and appropriate facilities will be provided for proper operation of the USE.
7. The USE is in conjunction with the approved BZA-SU-05-35.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to a commercial driveway permit being obtained and the entrance being constructed or a letter of credit submitted to insure the construction of the commercial driveway.
2. Subject to a sewer permit being obtained or a letter stating no permit is required.
3. Subject to any required building permit from the Warrick County Building Department being obtained.
4. Subject to an Improvement Location Permit being obtained.
5. Subject to all public utility easements and facilities in place.
6. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.

Richard Medcalf seconded and the motion unanimously carried.

Larry Willis returned and resumed the Chair.

**BZA-SU-07-28** – Applicant: William Rhodes Owner: Rhodes Insurance Agency and Tax Service Inc. by William Rhodes, Pres.

**Premises** – Property located on the S side of Greenwood Rd. approximately 155’ W of the intersection formed by Greenwood Rd (N 0). and Elliott Dr. Ohio Twp., 6673 Greenwood Rd.(Complete legal on file.)

**Nature of Case** – Applicant requests a Special Use, SU-22, for the district requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN, to allow a mobile home as a residence in an “A” Agriculture Zoning District. *Advertised in the Boonville Standard on October 11, 2007.*

William Rhodes approached the podium and stated his office address is 1111 E Main St. Boonville, Indiana.

Mr. Willis requested a staff report.

Mrs. Rector stated they have all return receipts from certified mailing to adjacent property owners of notice of this meeting. She stated the applicant requests a Special Use, SU-22, to allow the location of a mobile home on property to be used as a residence. She stated there had previously been a mobile home on the property and applicant states on the application that he “will be replacing an older mobile home with a newer mobile home”. She stated the Ordinance requires a Special Use in an “A” Agriculture zoning district for a mobile home. She stated the property is zoned “A” Agriculture with the surrounding property being zoned the same, except to the North which is zoned “R-1A” Single Family Dwelling. She stated there are residences to the north, east, and west, and the property to the south is vacant. She stated there is no flood plain on the property and is approximately .52 acres. She stated the application is in order.

Mr. Willis asked the petitioner if he had anything to add to the staff report.

Mr. Rhodes stated no.

Mr. Willis asked if there were any questions by Board Members.

Mr. Medcalf asked how long ago the other mobile home was there.

Mr. Rhodes stated they just tore it down two weeks ago. He stated it was in such bad condition it couldn’t be moved so they had to tear it down and haul it out in pieces.

Mr. Willis stated in essence he is just replacing a newer mobile home in place of the older mobile home.

Mr. Rhodes stated the older mobile home that was there was a 1968 model and they are going to replace it with a 1974 model.

Mr. McCune asked if it is a different size.

Mr. Rhodes stated he doesn’t know what size the old one was but the one they are going to put there is going to be 14’ x 70’.

Mrs. Rector asked Mr. Rhodes if this property is on Chandler Water and Sewer.

Mr. Rhodes stated yes.

Mr. Willis asked if there were any other questions by Board Members.

Mr. Medcalf asked if this is for a residence or a business.

Mr. Rhodes stated it is for a home, there will be a lady living in it.

Mr. Willis stated then it will not be his residence, it will be a rental property.

Mr. Rhodes stated correct.

Mr. Willis asked if there were any other questions by Board Members. There being none he asked if there were any remonstrators for or against this petition.

Thomas Smith approached the podium and stated he lives at 6617 Greenwood Road, the property directly east of the property in question. He stated the mobile home that was there was about 45’

long. He stated he was on his property a year before they moved the mobile home on that property. He stated it was sold as two different lots previously owned by the same owner. He stated he separated them. He stated the lot is 200' x 100', and in order for them to put that mobile home in there he had to sell them 10' to put the 50' x 12' mobile home in there. He stated now she wants to move a 70' mobile home in there and it is only 10' from the property line. He stated in order for her to do that, she has to take down three trees and cut into a bank 10' tall to get the thing in there right. He stated that is his only objection that the mobile home can not sit in that small space without tearing the natural drainage bank and cutting trees down adjacent to his property line.

Mr. Willis asked if the bank he's talking about is privately owned or if it is public right of way.

Mr. Smith stated it is privately owned, it is indeed her property but there would be a ten foot slice off adjacent to his property, a drop off if she took that bank out of there. He stated it is a natural sloping bank. He stated the 45' home she had in there before required them to take out a 3' bank to get it in. He stated he has no objection to putting it in the other way.

Mr. McCune asked if Mr. Smith is saying the bank is on the 30' side or the 12' side.

Mr. Smith stated the 12' side.

Mr. McCune stated there's 30' on one side and 12' on the other.

Mr. Smith stated they have to be able to get around to the back of it. He stated his property is on the 12' side and there is a bank that goes up 10' to 15' and they can't get it up there without cutting into it. He showed where the old 45' mobile home cut into the bank on the plot plan and where he will have to cut into it for the 70' mobile home she wants to put in there.

Mr. Willis asked Mr. Smith if he's concerned about the erosion and the drainage from where they cut the bank off.

Mr. Smith stated yes that is correct. He showed the Board on the plot plan where the 45' trailer went in to the bank. He stated she will have to cut into the bank from there all the way up to the property line to fit the 70' trailer sitting in there the way she wants to sit it. He stated for a 1974 trailer he doesn't think its worth all that money to do that.

Mr. Medcalf asked if he is east of this property.

Mr. Smith stated the side where she is 12 foot away from the property line.

Mr. McCune asked how close he is to the embankment.

Mr. Smith stated his driveway goes right along that edge.

Mr. McCune asked how much room he has between the driveway and the bank.

Mr. Smith stated probably 10'.

Mrs. Rector showed where Mr. Smith's driveway is in relation to the embankment on the aerial photo and where she wants the new mobile home. She stated Mr. Smith is way back from the property line.

Mr. Medcalf asked Mr. Smith if he understood him correctly that his driveway goes up the property line.

Mr. Smith stated his driveway is right beside his house and he has a fence on the property line and she wants to take out a bank there that would cause the dirt to erode next to that fence and driveway. He stated his concern is getting a 70' trailer in there where she had a 45' trailer in previously.

Mrs. Rector asked Mr. Smith how far away the 45' trailer was from the property line.

Mr. Smith stated it was 25' from the property line. He stated that is what he is saying, when they put the 45' trailer in there, they wouldn't allow her to have that in there without him selling her 10 extra feet so the property would be 110' instead of a 100'. He stated they wouldn't allow her

to put that trailer in there without an extra 10'. He stated now they want to come in and put a 70' trailer in there on the same amount of space.

Mrs. Rector stated they do meet the yard requirements. She stated they do meet the Zoning Ordinance requirements for the placement of the mobile home. She stated however much money it costs them to put that in there, that's up to them. She stated they could be as close as 6' from the side property line, if approved. She stated the side yard requirement is only 6' and then 25' from the front and back and 6' on each side. She stated they are meeting all the setback requirements. She stated they could even ask to be closer. She stated that maybe the Attorney could answer if this would be a civil matter or if it's something the Board would look at referring to cutting out the bank.

Attorney Fields stated he thinks they have to consider whether the use as it is developed will affect the surrounding areas. He asked if there is a Drainage Board.

Mrs. Rector stated yes.

Attorney Fields stated that would seem a little more appropriate to bring up with the Drainage Board. He stated he thinks it is something the Board hears and considers how it would affect the surrounding area.

Mrs. Rector stated the Board could table this until next month and have them appear before the Drainage Board and see if any drainage plan would be required.

Mr. Willis stated the Board is concerned with the erosion of the watershed as it comes off of Mr. Smith's property eroding that bank further if they do not truss the bank out.

Mr. Smith stated it is not just 3 feet; it's going to be a 15' high thing there. He stated he can see the top of the trailer from the top of his property. He stated they're going to have to dig 15' into this bank, take it all away and then what are they going to truss it up with.

Mr. Medcalf stated, just so he understands, Mr. Smith doesn't have a problem with the trailer there if it was running north and south.

Mr. Smith stated yes, he didn't want it there in the first place. He stated she is a good neighbor and he doesn't want her to not have a home. He stated to run it that way, it just seems like it would work better. He stated if she ran it north and south she'd have a nice side yard and nice shade trees.

Mr. Willis asked if there were any other remonstrators for or against this petition. There being none he asked Mr. Rhodes to return to the podium.

Mr. Rhodes stated there is only one tree there that is going to have to be cut and he hasn't been down there to measure exactly how high that bank is but they took the wheels and axel off of the mobile home that was there and just dropped it down to the ground and that is why they had to cut into the bank so it could be closer to the ground. He stated he does not intend to do that with this one that he's moving in there. He stated it is going to be at least 3' off the ground and the bank he is talking about is a gradual slope, it is not steep in anyway. He stated he believes this mobile home will go back over the top of that bank and set there where he won't have to move any dirt. He stated if he has to move any dirt it will be very little. He stated he can get the Board pictures of it or whatever the Board wants him to do. He stated he didn't intend on moving any dirt. He stated he cut down one tree and the tree is not even in the bank. He stated it was in front of the existing mobile home right at the very corner of it and it was in the way.

Mr. Willis asked if there are any questions by Board Members.

Mr. McCune asked why the neighbor thought they would need to cut into the bank 10' to get the old trailer in there.

Mr. Rhodes stated he has no clue. He stated the mobile home that was put there was put there by somebody else. He stated he just bought the property.

Mr. McCune stated in order to put that new trailer in; she's going to have to cut the bank off to get the new trailer in there.

Mr. Rhodes stated he doesn't know who came up with that. He stated the way he sees it he's not going to have to cut off 10' of the bank. He stated he might be wrong but he doesn't see any bank being cut off.

Mr. Willis stated the only dirt he will be disturbing is where the foundation goes for the block skirt.

Mr. Rhodes stated on the east end of the mobile home, that end is going to be parked on top of the bank that is there. He stated he doesn't think he'll have to remove any of the bank because the mobile home itself is going to be at least 3' off the ground. He stated the bank is a gradual fall. He stated it isn't steep by any imagination.

Mr. McCune asked if Mr. Rhodes has actually looked at this so he can come out and make a statement that he will not have to cut that bank.

Mr. Rhodes stated he has not surveyed the 3 foot line. He stated he doesn't think he will have to take any dirt out but he doesn't know. He stated he didn't know he needed this information or he would have had it for the meeting.

Mr. Medcalf asked if they have considered putting in the mobile home the other way. He asked if that was a possibility.

Mr. Rhodes stated that is a possibility.

Mr. Medcalf stated it seems like that may alleviate a lot of problems.

Mr. Willis asked if there were any other questions by Board Members.

Mr. McCune stated he's got a big doubt. He stated somebody's not made up their mind or the Board is getting two different stories and there needs to be a decision made.

Mr. Willis asked if the Board wants to table this until the next meeting and he can come back to the next meeting with the information the Board needs to see whether he's going to have to cut the bank back or not.

Mr. Erwin stated he would like to see that plus he would like to see him go before the Drainage Board and see if there's a drainage problem because he doesn't want to be involved in causing a drainage problem.

Attorney Fields stated he agrees.

Duane Erwin made a motion to continue to allow him to come back to the next meeting and in the meantime go before the Drainage Board and get them to look at the property and bring the Board more information as to what this whole lot looks like. He stated he could provide some pictures.

Mr. Rhodes asked if he put the trailer in a different way if it would be approved.

Mr. Willis stated he would have to amend his plot plan to show the trailer sitting a different way.

Mr. Erwin stated he would have to go back and amend his petition.

Mr. Rhodes stated whichever way he does it; he can't do anything until the next meeting which is the end of November.

Mrs. Rector stated he could amend his application right now.

Mr. Willis stated the Board could vote on the amendment to the application and then they can discuss voting on the new proposal that he has in front of the Board if he turns the mobile home 90 degrees.

Mr. McCune stated that is his call.

Mr. Rhodes asked if he just needs to ask to do that.

Mr. Willis stated yes.

Mrs. Rector stated the problem is they don't know where that bank sits on the property. She stated she doesn't know what he's going to ask for. She stated he's saying it was 25' before or 30' so evidently it's that close.

Mr. Willis stated the thing they want to make sure of is they don't create a water problem because the hydraulics of the water just ruins everything upstream from where it is. He stated they have to make sure they don't cause a drainage problem.

Mr. Rhodes stated lets just leave it like it is and continue with the Board's motion. He stated he could put the home in there the other way but he just wants to see what he can do.

Mrs. Rector stated the next meeting is November 28<sup>th</sup>. She stated right now the mobile home is 12' from that property line. She asked how many feet he would need to move the mobile home over to get away from the bank.

Mr. Rhodes stated it would be 30'.

Mr. Smith stated the mobile home that was there previously was 30' from that line plus 45' so it was 75' from the western property line. He stated if he turns it at 75' there wouldn't be a problem.

Mr. McCune stated he is talking about leaving it the way it is and checking the drainage.

Mr. Rhodes stated he is thinking about amending it, turning it 90 degrees.

Mr. Medcalf stated running it north and south long ways.

Mr. Willis stated to Mr. Smith, if he understood him correctly, the last mobile home that was there was 30' from the east property line.

Mr. Smith stated yes.

Mr. Willis stated so if the closest part of that trailer was 30' from that incline, that would satisfy the water shed that he's talking about.

Mr. Smith stated it would remain the same.

Mrs. Rector asked if Mr. Rhodes is wanting to amend his plot plan to show the trailer 70' back and 30' from the east property line.

Mr. Rhodes stated it will have to be moved closer to the street because the mobile home is 70' long with the tongue.

Mrs. Rector stated it has to be 25' back from the front property line.

Mr. Rhodes stated they can do that.

Mrs. Rector stated so he wants it 25' back from the front property line on Greenwood Road and 30' from the east property line.

Mr. Rhodes stated a minimum.

Mrs. Rector stated that they've got to go by the plot plan so he has to say yes that is where it is going. She stated these applications are approved according to the plot plans on file.

Mr. Rhodes stated he will just have it continued to the next meeting because he can't make that decision right now.

Mr. Willis stated there is a motion on the floor that requires him to go in front of the Drainage Board prior to coming back to this Board.

Mrs. Rector stated the Drainage Board will meet on November 14<sup>th</sup> and he needs to come into the office and she'll take him over to the Surveyors office and talk to them and get him on their agenda.

Richard Medcalf seconded and the motion unanimously carried.

**BZA-SU-07-29** – Applicant & Owner: Krystopher Kolley

**Premises** – Property located on the N end of Millerburgh Rd. approximately 1200 ft. E of the intersection formed by N. State St. (W 625) and Millersburgh Rd. (N 250) Lt 3 Kolley Subdivision Ph II. Ohio Twp., 6266 Millersburgh Rd.

**Nature of Case** – Applicant requests a Special Use, SU-22, for the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN, to allow a mobile home for a residence in an "A" Agriculture Zoning District. *Advertised in the Boonville Standard on October 11, 2007.*

Krystopher Kolley approached the podium and stated his address is 2522 N State Street in Chandler.

Mr. Willis requested a staff report.

Mrs. Rector stated they have all return receipts from certified mailing of notice of this meeting. She stated the applicant requests a Special Use to allow a mobile home to be used as a residence on property with an unattached barn on the property. She stated the property is approximately 2.5 acres zoned "A" Agriculture and "CON" Recreation and Conservancy. She stated the surrounding property is zoned the same and vacant. She stated there are two residences to the west about 800' away. She stated the applicant states on the application, "This will be a temporary residence for a young couple getting married in October and are planning to build a new home as soon as possible." She stated there was a variance granted 9/5/06 to allow the existing unattached barn. She stated the Applicant does have a septic permit from the Health Department and an approved driveway permit from the County Engineer. She stated the application is in order.

Mr. Willis asked if Mr. Kolley had anything to add to the Executive Director's report.

Mr. Kolley stated the septic system has been passed and approved. He stated they've already got water back there and everything. He stated they will probably be there for about two years in the trailer at the most.

Mr. Willis asked if they will be the residents of the trailer.

Mr. Kolley stated yes.

Mr. Willis asked if there were any questions by Board Members.

Mr. Mottley asked if they plan on moving the trailer out when they build their new house.

Mr. Kolley stated yes.

Mr. Willis asked for other questions by Board Members. There being none he asked for remonstrators for or against this petition.

Kathy Merrill approached the podium and stated she currently lives at 101 W. Jennings in Newburgh. She stated she brought some pictures and handed them to the Board. She stated this is a picture of a trailer and then there are also pictures of the houses that are across from that, ones that are currently built and some are still under construction. She stated Tom and her purchased about 80 acres on N. State Street and Millersburgh Rd. She stated they also purchased 4 lots in Spring Lake Subdivision that she's hoping to build a house on but her house is going to be looking at that trailer. She stated they invested a whole lot of money on the acreage and those four lots and they don't feel like it would be financially feasible for them to invest another \$400,000 to 500,000 in a house and look out at this trailer. She stated it is going to bring the property values down. She stated all these houses were there and under construction before this trailer that's out there now is sitting. She stated they just feel like its going to bring the property values of the whole area down.

Mr. Mottley asked if she knew it is going to be temporary until they build their new house.

Mrs. Merrill stated when they signed off to have the pole barn built they were told it was going to be for horses and then the pole barn was built out of what looks to her like used materials. She stated now there is a septic tank that's in and an old trailer drug out there. She stated she has her house plans on hold because she can't put that kind of house out there looking out at that. She stated she wishes she was as photogenic as what this trailer is that she took the picture of. She stated it did have aluminum foil over the windows and it's sitting on the side of the road now.

Mr. Willis asked if Mrs. Merrill's property is in a subdivision and if it is agriculturally zoned.

Mrs. Merrill stated no it is in Spring Lake Subdivision. She stated they bought the 80 acre farm that goes up Edwards, North State and Millersburgh and then they bought the four lots at the end of Spring Lake Subdivision. She stated where they're hoping to build is right next to one of the homes there that is under construction. She stated the neighbors as well as them would have to view that trailer.

Mr. Medcalf stated the west property line of the subdivision is the Kolley's east property line.

Mrs. Merrill stated she wants to put her house where the arrow is on the aerial photo.

Mr. Medcalf asked if this is the pit by the road.

Mrs. Merrill stated yes, which is currently a beautiful view.

Mr. Willis asked if she had anything else to add.

Mrs. Merrill stated no that's all she has.

Mr. Willis asked if there were any questions for Mrs. Merrill by the Board. There being none he asked for further remonstrators for or against this petition.

Tony Toopes approached the podium and stated he resides at 3699 Elizabeth Ct. in Engelbrecht Subdivision. He stated he is with Mrs. Merrill against the proposed putting of the trailer on that property along with the barn. He stated a couple of the pictures that the Board sees in the handout, he is currently building. He stated one of the residences for Steve and Barbara Topper and another one for Glen and Debbie Newman. He stated both residences are going to exceed \$500,000 in value. He stated there is potential out there to build a lot more homes. He stated he doesn't know exactly how many lots are available for sale or are already taken but he believes the trailer situated where it is and the barn that's been put up as you drive into the subdivision is not aesthetically pleasing and it is also not aesthetically pleasing from the houses that he's constructing right now to that property. He stated they just drug it onto the property recently.

Mr. Willis asked if there were any questions by Board Members.

Mr. Medcalf asked how long ago the pole barn was built.

Mr. Toopes stated he believed it was constructed six months ago. He stated he's not 100% sure.

Mr. Medcalf asked Mrs. Rector if the building inspector would be the one to approve that pole barn and check to see if it was inadequate. He asked if the Building Inspector would have caught that.

Mrs. Rector stated yes he should have. She stated she doesn't believe they inspect agriculture buildings. She stated it is just a horse barn so she thinks the only thing they inspect is if electric is run to it. She stated if it is an agriculture building it is not.

Mr. Willis asked if there were any questions for Mr. Toopes by the Board.

Mr. Medcalf asked the remonstrators, knowing that the trailer is going to be temporary, if it is a problem with the trailer going in for two years or is there a problem with this particular trailer going in for two years.

Mr. Toopes stated he would think it would be any trailer in that area. He stated when a person turns onto that road that is one of the two entrances to go into that subdivision as you turn right

on Millersburgh. He stated he thinks he would have a problem with any structure that was put there.

Mr. Erwin asked if he realizes the trailer is going to be 260' back, it is not where the trailer is sitting now.

Mrs. Merrill stated it will probably be closer to her backyard.

Mr. Erwin asked if she's behind them to the north. He asked if she is on the same side of Millersburgh Road.

Mr. Medcalf stated she is to the south.

Mr. Erwin stated the trailer is north of Millersburgh Road 260 feet.

Mrs. Merrill stated she doesn't want to say north and south. She showed on the aerial photo where her lot is, the lake is and then where the trailer will go.

Mr. Erwin stated the trailer is going to go back 260'.

Mrs. Merrill stated she realizes that, when she sits on her porch it's going to be sitting right there.

Mr. Erwin asked if she realized that these folks might have their house built before she gets to sit on her front porch.

Mrs. Merrill stated she wishes they could drive out there and see what she's talking about. She stated she was hoping they could tell by the picture.

Mr. Medcalf asked her to explain that further. He asked if she's addressing the mobile home.

Mrs. Merrill stated if he doesn't think it's going to be in her view, it is going to be straight in her view as well as her neighbors that are already building. She stated all of this was there before.

Mr. Willis asked if she had anything else to add.

Mrs. Merrill stated no, she guesses that's all she has.

Mr. Willis asked if there were any questions of Mr. Toopes.

Mr. Toopes stated he is stating it will only be there for two years and then could possibly be moved. He stated that is fine but as they're going through this they are also having people coming out to tour the Newman's and Topper's home in order to buy lots out there in that subdivision and in order to continue the development. He stated not only are they talking about the Merrill's who have made an investment in the property and the Newman's and the Toppers but they are also talking about when he sends potential clients out there to look at the land in order to expand the development. He stated they also have that to consider. He stated for him it's more of an ongoing thing where two years if they pull it that's fine but it could possibly hurt them in the next two years as far as moving that property.

Mr. Mottley asked Mrs. Rector, since this property is zoned Agriculture, they could basically come in there with 500 hogs and put it on that property. He stated in his opinion, people that buy out in a rural area and build these houses they have to remember the property all around them may be agriculture. He stated he'd rather look at that trailer for two years then 500 hogs. He stated these are things that people need to realize. He stated there's a lot worse things than that trailer that could go on that property.

Mrs. Rector stated the Kolley's property is also a subdivision and all of these are zoned Agriculture. She stated none of it is residential. She stated a person doesn't have to rezone to have a subdivision. She stated they only do that to have smaller lots or to restrict livestock and things like that from there.

Mr. Willis asked if Mr. Toopes had anything else to add.

Mr. Toopes stated he does agree it could be anything but at this time they are just considering the trailer and the barn. He stated if it was tabled to put 500 hogs there he believes they would all be here also.

Mr. Willis stated that was just an example, it is an agriculture area. He asked if there were any other remonstrators for or against this petition.

Jennifer Kolley approached the podium and stated she resides at 2500 N. State St.

Mrs. Merrill stated she is not a remonstrator.

Mr. Willis stated it can be for or against.

Mrs. Kolley stated she can talk. She stated her lot is Lot 5 right there on Millersburgh Road and if the Board will look, that mobile home is setting right there on lot 5. She stated it set there up until 18 months ago when they moved it out and she built her new pole barn home. She stated she had sold it since then, the guy could not get his permits lined out, he never could take it. She stated then the kids ended up needing a place to live and that is why the mobile home is where it is. She stated she can assure the Board it is very nice inside. She stated it might not be beautiful outside but it has been setting for over a year waiting on this other guy to get his permits. She stated that is the mobile home they are talking about sitting right there on that lot. She stated it has been there for sixteen years. She stated she is sorry they built. She stated their homes can't possibly look at it, there's a pit right across the street, and it has been there ever since they lived out there. She handed pictures over to the Board explaining where the mobile home is going to go and what the pole barn looks like and where their house is. She stated it is trees and a pit and the picture shows a view from both directions on the road. She stated it is not like they're trying to set up something horrible in the middle of the street. She stated they are getting married Saturday and they want a place to live.

Mr. Mottley asked Mrs. Rector to assure him they can set the time limit at 2 years and then if they can't meet that then they have to come back to revisit it.

Mrs. Rector stated yes.

Mr. Willis asked if Mrs. Kolley had anything else to add.

Mrs. Kolley stated no, if the Board has questions she'll answer those.

Mr. Willis asked if there were any other remonstrators for or against this petition.

Steven Topper approached the podium and stated his address as 3400 Midview in Old Hickory Estates. He stated they are one of the families' Mr. Toopes spoke about. He stated they bought property out there to build a house and despite what was said earlier they do see that trailer unfortunately, they do see that pole barn and it is not what they bought out there for, its not why they're building a half million dollar house out there. He stated he realizes it is zoned Agricultural and he has no objections to horses and pigs and cows. He stated if the Board could see that trailer, they would understand why they have objections. He stated folks for the petition have admitted it is not a beautiful site. He stated it is not a beautiful site. He stated it may be beautiful inside but what people see is what they see as they drive by it. He stated it is going to hurt home values in that subdivision more than he likes to think.

Mr. Willis asked if there were any questions by Board Members. There being none he stated the time limit for remonstrance has elapsed and asked if the petitioner could come forward. Mr. Willis asked the petitioner if he had any rebuttal or comments.

Mr. Kolley stated the pictures they have, he agrees it isn't the greatest sight. He stated they have intentions of washing it and painting it and fixing it up so it's not an eyesore to everybody. He stated it will have under pinning and everything on it. He stated they're just starting out, they can't afford a \$500,000 house or else they'd build one out there. He stated they've been there for over 16 years before these people even decided to come out there and buy it and subdivide and build on strip mining ground. He stated it is not a good sight there but it's not in place and it's not cleaned up and it's not ready to move in yet either.

Mr. Willis stated it is also not in the proper location yet either.

Mr. Kolley stated that is correct. He stated it is not in the proper location yet.

Mr. Willis asked the petitioner about the existing pole barn and if it was built for horses. He asked what the petitioner has in the pole barn at the present time.

Mr. Kolley asked if he meant investment.

Mr. Willis stated no, the contents of the pole barn.

Mr. Kolley stated it is not completed; he is in the process of building the stalls and trying to get the trim finished and everything on it.

Mr. Willis asked if he has building materials in the pole barn that he plans on using.

Mr. Kolley stated yes, there's building materials in there now.

Mr. McCune asked when he started on this pole barn, if it was this year.

Mr. Kolley stated this spring, when he got the permit.

Mr. Topper asked if he could ask a question about the pole barn.

Mr. Willis stated no, not at this point.

Mrs. Rector stated he was granted a variance at the end of last year for the pole barn so they just started it.

Mr. McCune asked what Mr. Kolley's plans are.

Mr. Kolley stated they are getting married Saturday and they are going to finish the pole barn when they get back and move the trailer in and stay there for no more than two years. He stated the sooner they can save up the money and are able to start building a house or have someone build a house then the trailer will be out of there.

Mr. Medcalf stated they understand both sides. He stated he understands where they're both coming from.

Mr. Willis asked the petitioner if he stated he has lived out there for sixteen years.

Mr. Kolley stated yes.

Mr. Willis asked if his parents lived out there.

Mr. Kolley stated yes.

Mr. Willis asked if there were any questions by Board Members.

Mr. Medcalf stated he understands both sides here and he understands this is a young couple trying to get started and everybody has to start somewhere. He asked what kind of limitations they can hold these two years to. He stated he doesn't want the two years to turn into three or four years because he understands the other side.

Mr. McCune stated after the two years they have to come back in and ask whether they can extend that or not.

Mr. Medcalf stated if it would be granted, it's there, they are living there. He stated two years they come back for more time and they have this same quorum and they say no. He asked if they can kick them out of their house.

Mr. Willis stated it would be a violation of the County Ordinance. He stated they may have to go to the circuit court to get it enforced but yes they can do that. He asked for any other questions by the Board. There being none he entertained a motion.

Don Mottley made a motion findings of fact be made as follows:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.
7. The USE will allow the property to be used for a residence and applicant will be constructed a new residence as soon as possible.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to an Improvement Location Permit being obtained.
2. Subject to any required Building Permit from the Warrick County Building Department.
3. Subject to all public utility easements and facilities in place.
4. Subject to the property being in compliance at all times with the applicable zoning ordinance of Warrick County.
5. Subject to driveway permit requirements.
6. Subject to all rules and regulations of the local Health Department.
7. Subject to the trailer being removed two years from this date.

Duane Erwin seconded.

Richard Medcalf, Don Mottley, Duane Erwin, and William McCune voted for the petition.

Larry Willis voted against.

The motion carried.

**BZA-SU-07-30** – Applicant: Alvey’s Sign Co. by John Reiplinger, Admin. of HR & Compliance. Owner: Andrew T. & Nicole M. Spurling.

**Premises** – Property located on the N side of Ruffian Ln. approximately 175’ W of the intersection formed by Ruffian Ln. and Lakeshore Dr. Lot 1 Bell Oaks Place. Ohio Twp. 8600 Ruffian Ln.

**Nature of Case** – Applicant requests a Special Use, SU-8, for the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN, to allow an electronic message board/sign with flashing , moving, rotating, or intermittent lights or animated messages for Lefler’s Body Shop in a “C-4” General Commercial Zoning District. Advertised in the Boonville Standard on October 11, 2007.

John Reiplinger approached the podium and stated his address as 13100 Hwy 57 North in Evansville.

John Defries approached the podium and stated he works out of the same address as above.

Mr. Willis asked for a staff report.

Mrs. Rector stated since this was filed they did record a deed from Andrew Spurling and now the owner is Collision Network Properties LLC and they have appointed John Defries and Mr. Reiplinger as the special power of attorney to represent them at this meeting tonight and it has been recorded and is in order. She stated they have all return receipts from the certified mail of notice of this meeting except one from Theresa and Susan Zlock. She stated they have the white

pay stub and it was mailed 10 days prior to this meeting. She stated the applicant requests a Special Use SU-8 to allow a message center in the same location of a previous sign. She stated in 1994 there was an executed Hold Harmless agreement that runs with the land to allow the sign in a 75' right of entry to a county maintained legal drain. She stated the property is zoned "C-4" General Commercial with the surrounding property to the North, Bellmoore Landing; to the East, Hardees; and to the South, Pizza Hut; being zoned the same. She stated the property to the West is zoned "C-1" with Premier Video. This business was previously Barney & Bo's Car Wash. The Ordinance states the sign cannot display lights resembling danger or emergency lights and cannot use the words, "Stop", "Danger", "Look", or any word to confuse traffic. She stated they cannot advertise any other business on the signage, otherwise it would be an off premise sign and billboard. She stated for any approval that should be part of the conditions.

Mr. Willis asked if the petitioner had anything to add to the staff report.

Mr. Reiplinger stated it is pretty self explanatory. He stated they also have a representative of the business for the management team there. He stated he will answer any questions the Board has.

Mr. Willis asked if there are any questions by Board Members. Mr. Willis asked why they need an electronic message board when they already have on the sign "Collision and Glass, Leifler est. 1952 Repair Center". He stated they already have what they do and who they are and how long they've been in business. He asked why they need the electronic message board.

Mr. Reiplinger stated it allows them to bring current messages before the public out there much like the older version of that where they had changeable letters.

Mr. Defries stated they could change it up seasonally, when things get icy people hit bumpers, damage fenders and they would have the ability to change the message depending on what they want to put out to the public.

Mr. Reiplinger stated it's a very expensive signage that is going up there and to him it presents a more professional appearance rather than hanging banners up there anytime they may have something special going on.

Mr. Willis stated he can understand when traffic backs up on a six lane highway that they want to be able to present a message while they're sitting there waiting on the five minute traffic light. He asked if there were any other questions by Board Members. There being none he asked for any remonstrators for or against this petition. There being none he entertained a motion.

Duane Erwin made a motion findings of fact be made as follows.

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The specific site is appropriate for the USE.
4. The USE as developed will not adversely affect the surrounding area.
5. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
6. Adequate and appropriate facilities will be provided for proper operation of the USE.
7. The USE will be replacing an existing sign.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to any required State or Federal Permits.
2. Subject to an Improvement Location Permit being obtained.
3. Subject to any required Building Permit from the Warrick County Building Department.

4. Subject to the property being in compliance at all times with the applicable zoning ordinance of Warrick County.
  5. Subject to all public utility easements and facilities in place.
  6. Subject to the message board being used for the advertisement of Lefler's Collision & Glass Repair Center items only and will not be used as a billboard for lease.
  7. Subject to no use of words, "stop", "danger", "look", or any other word which would confuse traffic.
1. Subject to hold harmless with Drainage Board.

Richard Medcalf seconded and the motion carried.

**BZA-SU-07-31** – Applicant & Owner: Warrick County School Corporation by Brad Schneider, Superintendent.

**Premises** – Property located on the W side of Casey Rd. approximately 1200' S of the intersection formed by Casey Rd. (W 725) and Vann Rd. (S 350) Ohio Twp. 3711 Casey Rd.(Complete legal on file)

**Nature of Case** – Applicant requests a Special Use, SU-15, for the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN, to allow a proposed middle school educational facility in an "A" Agriculture Zoning District. Advertised in the Boonville Standard on October 11, 2007.

Mark Neff approached the podium and stated he is the attorney for the Warrick County School Corporation. He stated the School Corporation's headquarters are 300 Gum Street in Boonville and his office is 224 W Locust St in Boonville.

Mr. Willis asked for a staff report.

Mrs. Rector stated they have all return receipts from certified mailing of notice of this meeting. She stated there was a staff error on the notice so staff sent a second notice informing the adjoining property owners that the property is on the West side of Casey Rd. not the East side of Casey Rd. She stated the applicant is requesting a Special Use SU 15 to allow a middle school educational facility. She stated the Comprehensive Plan Show the area to be public schools or recreational. She stated the applicant states on the application, "The site will be used by the Warrick County School Corporation for educational purposes, athletic purposes, parking, and by the Warrick County, Indiana – Castle Middle School Building Corporation as the proposed Castle Middle School." She stated the property is approximately 62.950 acres zoned "A" Agriculture. She stated a portion of the acreage is currently being used as athletic fields. She stated the property does front on SR 261, Vann Rd, and Casey Rd. She stated the property to the north is Castle High School and is zoned Agriculture, the property to the east is zoned Agriculture and is vacant except for the trash disposal station. She stated the property to the south is zoned Agriculture with residences. She stated the property to the west is "C-3" Highway Commercial with commercial development and to the southwest is Old Hickory Subdivision across SR 261. She stated Drainage Board Approval is needed. She stated they did submit Drainage Plans to the Drainage Board and that will go before them in two weeks. She stated she spoke to Mr. Niemeyer and he will have that on their agenda so any approval should be subject to Drainage Board Approval. She stated the plot plan shows 2 ingress/egress locations on Casey Rd. She stated Robert Howard, County Engineer, stated any improvements to Casey Rd will be determined when they apply for their Commercial Driveway Permits. She stated Article V Sec 6 Discontinuance of Special Use states if a special use is abandoned for one year or has not been completely established within one (1) year of the date granted, the Special Use shall be null and void. She stated a Special Use may not be altered to become any other use than that which was approved by the Board of Zoning Appeals. She stated the application is in order

Mr. Willis asked if Mr. Neff had anything to add to the Executive Director's report.

Mr. Neff stated he believes that the proposed school is in harmony with Warrick County's restrictions and requirements. He stated he believes it will be an asset to the community, an asset to Newburgh in particular. He stated there will be no demolition required because it is vacant property now. He stated they have adequate utilities in the area, adequate roadways so they believe based upon the County's requirements they meet the criteria and they ask the Board approves it subject to getting rid of the one year requirement because they can't get a school built

in twelve months. He stated other than that they intend to start on construction. He stated they let the bids out so within the next few months they anticipate starting construction.

Mr. Willis asked if everyone understands Mr. Neff's request of the requirement of the one year satisfaction rule will either need to be deleted or extended.

Mrs. Rector asked how one would interpret completely established. She stated it's going to be a school. She asked if that means completed.

Attorney Fields stated he's not sure. He stated they should be able to extend it.

Mr. Mottley asked if they can just waive the rule.

Mrs. Rector stated she can usually give extensions herself, for variances etc.

Mr. Neff stated the way that reads it is like an automatic thing and if they don't get back here in a year to make the application they've automatically lost it. He stated they don't want to get in that position.

Mr. Willis stated what they're concerned about if a glitch comes up and the contracts are not released to start construction and their time period runs out, they're afraid of that window closing.

Mr. Neff stated not even if there's a glitch. He stated even if it runs smoothly it will still probably take more than twelve months to get it done.

Mrs. Rector stated it's not going to get done in a year.

Mr. Willis stated the completion is not but the starting time will. He stated he interprets that to mean they have let their contracts out and have started construction.

Attorney Fields asked if that definition is in the Ordinance.

Mrs. Rector stated she didn't know it was even in there until she read it today and they were doing the staff reports.

Mr. Willis stated they can deal with this in the motion. He asked Mr. Neff if he had anything to add to the Executive Director's report.

Mr. Neff stated no.

Mr. Willis asked why they need another middle school in the Warrick County School Corporation.

Mr. Neff stated he should go to some of their school board meetings. He stated the people at Sharon are demanding more student spacing and more teachers.

Mr. Willis stated he understands there is an outcry from the residents of the community but he asked if the School Corporation has done the due diligence to check and see if moving the boundary lines would enhance the position of the school buildings they have now. He asked if they have looked and seen if there are students from other areas going to the schools in Ohio Township who may live in Evansville but their grandmother lives in Ohio Township so they use Grandma's address to go to a Warrick County School because of the perception. He asked if the school corporation has checked into those areas.

Mr. Neff stated yes, they have. He stated they discussed that in the last couple of weeks. He stated they don't have specific knowledge as to the number of people that are divorced or married because what the statutes allow is custody can be between two parties and one party can move to Evansville, yet the other partner resides in Warrick County. He stated unless you get into the households and decide who lives where, they don't always know whether that disqualifies the child or not. He stated some of that has been checked but it is not an easy process. He stated it is an ongoing process in terms of who is attending what school. He stated in terms of boundaries, a few years ago, Sharon School was virtually empty and they shifted some kids there. He stated what happens in neighborhoods is as that population gets older, the kids are gone so suddenly you have an empty school area. He stated once this generation

disappears, the next generation comes in with a younger generation of kids and there's a packed school again. He stated Sharon has been packed, unpacked and now it's packed again. He stated it is kind of a cyclical thing but yes the School Board has looked also at redistricting and to his knowledge at this point the Board prefers to just build the school down there in anticipation also of all day kindergarten. He stated if that becomes a reality they will need more class space all over the County as opposed to just in that particular area.

Mr. Willis stated that is a maybe. He stated the legislature has not passed all day kindergarten.

Mr. Neff stated they have it in Indianapolis.

Mr. Willis stated they have it in Evansville too but the requirement for kindergarten is not necessarily needed for Warrick County School Corporation.

Mr. Neff stated if it does they can't get ready for it in a year or a year and a half. He stated it will take two years to get ready for it. He stated if they give them a short window they wouldn't have the opportunity to have the facilities for all day kindergarten.

Mr. Willis stated he's not against more schools. He stated he's very pro-school but he wants to make sure the tax payer is getting the due diligence by the decision makers to do what best impacts their tax burden.

Mr. Neff stated they are all elected officials and they have had the administration conduct studies. He stated they've got reports and he thinks they're all aware of their options. He stated they have considered redistricting, shifting students. He stated this at the present time appears to be the best option. He stated there are other options but this appears to be the best one at the present time. He stated this is going to be a grade 6,7,and 8 school. He stated they are going to take the 6<sup>th</sup> grade out of Sharon and the 6<sup>th</sup> grade out of Castle.

Mr. McCune stated they are adding a junior high school.

Mr. Neff stated they are going to have two middle schools. He stated Castle Junior High will be Castle Middle School North and this building will be Castle Middle School South.

Mr. Medcalf stated it is the original Castle High School.

Mrs. Rector stated that will be changed to 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> grade also.

Mr. Neff stated correct. He stated ultimately Boonville Junior High will be a 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> grade school and likewise for Tecumseh. He stated it will be a phase in process.

Mr. Willis stated they are going to a middle school concept rather than a junior high concept where they have 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grade rather than just 7<sup>th</sup> and 8<sup>th</sup> grade. He stated that will free up classrooms in their existing buildings so they can alleviate some of the crowding.

Mr. Neff stated if 6<sup>th</sup> grade moves out it gives more room for Kindergarten to move in.

Mr. Willis stated or other needed classroom space whether they have all day kindergarten or not.

Mr. Medcalf asked if the new school is going in where the soccer field is.

Mr. Neff stated behind it, further south down Casey Road. He asked if the Board thinks they'll be allowed to tear up a soccer field. He stated they have to move south of it.

Mr. Erwin stated he is strictly against putting 6<sup>th</sup> grade students with 7<sup>th</sup> and 8<sup>th</sup> graders. He stated they are too young. He stated he's got one in half day kindergarten right now and the poor little guy didn't know how to lie until he went to school.

Mr. McCune stated it is not a very big area.

Mrs. Rector stated it is 62 acres.

Mr. McCune stated they need a lot of room for a junior high school.

Mr. Medcalf stated what amazes him is it's not a half mile away from the other middle school.

Mr. Neff stated the population center of Warrick County is all packed in right there.

Mr. Willis stated that was his question, if it is really needed down there in that location and would redistricting serve the purpose.

Mr. Neff stated what they get into with redistricting is bussing and then there are parents that complain that the kids are on the bus for a half hour, 45 minutes, each way, everyday or that it's away from their traffic flow if they're working in Evansville. He stated they don't want to go back toward Yankeetown.

Mr. Mottley asked about the rumor that Vanderburgh County and Warrick County School Corporations combining.

Mr. Neff stated that is just a rumor.

Mr. Erwin stated where he's from they've bussed 30-45 minutes for years. He stated going to Tecumseh High School from Elberfeld and Dale and Lynnville, and Selvin.

Mr. Neff stated that is just a little bit of a difference because it's a spread out rural area. He stated you get people that are packed in and they don't want their kids to move 30-40 minutes per day, each way.

Mr. Erwin stated he just doesn't understand why they couldn't put it down south rather than two blocks away from the other school.

Mr. Neff stated they've owned this real estate for fifteen years now. He stated the School Corporation anticipated this fifteen years ago.

Mr. Willis stated which helps the tax payer because they don't have to go out and buy property to build on.

Mr. Neff stated he guarantees they got it for a price less than what it would sell for. He stated its Old Hickory property. He stated to answer the question about the age of the kids, not to step on Mr. Erwin's toes but that is the School Corporation's job to consider that.

Mr. Willis stated the Board's responsibility is to consider the use of the land and things of that nature and some of the questions they have asked of Mr. Neff this evening may be off topic just a little bit.

Mr. Neff stated they've been to Indianapolis on this already also for the Board of Education, Homeland Security approval etc.

Mr. McCune asked if this job is getting ready to come out for bids.

Mr. Neff stated yes. He stated it's been fast tracked.

Mrs. Rector stated with the number of permits they issue and the subdivisions going in she thinks they need it.

Mr. Neff stated he went down SR 66 the other day and there are some new apartment complexes there and there are some new apartment complexes back by Schnucks, he doesn't know how to stop it unless the Board stops it.

Mr. Medcalf stated they don't have much acreage at the old Castle High School.

Mr. Neff stated they've got a lot of acreage out front, they don't use it so there's plenty there. He stated once you've got football stadiums and soccer fields and so forth you need the acreage. He stated the junior high kids don't have recesses like they do for grade school so there should be plenty of acreage. He stated they meet the qualifications from the Department of Education.

Mr. Willis asked about Vann Road coming across the north end of the athletic fields that are in place now. He stated this is going to go on the south end so it's further removed from Vann Road than what the high school is right now.

Mr. Neff stated yes it will be about 1200 feet south of that.

Mr. Willis stated that concerns him with the high school kids that Vann Road is heavily traveled but when you have smaller children who are not traffic adept, it bothers him even more.

Mr. Neff stated this will be 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> graders and number two, the superintendent will possibly be asking the County to move Vann Road south and put it away from Castle High School so there are a lot of options out there yet. He stated if that is going to become a reality they don't know.

Mr. Willis stated that would add a couple more dollars to the price tag of this project.

Mr. Neff stated they were hoping the County would do that.

Mr. Willis stated it still comes back to the taxpayers no matter which pocket it comes out of. He stated it would take highway tax dollars to move a road that is functional now.

Mr. Neff stated it is not a question of function. He stated people have questions about it being the safest place in relation to the soccer fields and so forth.

Mr. Willis stated that road was there before the soccer fields and they knew that when they did that.

Mr. Neff stated when the school was built they didn't have soccer or girls softball.

Mr. McCune stated now there's a baseball field there too.

Mr. Neff stated it all keeps getting more and more involved.

Mr. Mottley asked if they will have to do work on Casey Road for ingress and egress on both drives.

Mr. Neff stated that is going to be up to the engineers and architects to get that straightened out.

Mr. Willis asked if he understands correctly, all entrances to the school property will be off of Casey and not off of SR 261.

Mr. Neff stated they won't be off of SR 261. He stated SR 261 is up there where that old house was next to the highway. He stated this is going to be at the opposite end of the property southeast of the old house.

Mr. Willis asked if there were any questions by Board Members. There being none he asked if there were any remonstrators for or against this petition. There being none he entertained a motion.

Don Mottley made a motion findings of fact be made as follows:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The specific site is appropriate for the USE.
4. The USE as developed will not adversely affect the surrounding area.
5. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
6. Adequate and appropriate facilities will be provided for proper operation of the USE.
7. The USE will be beneficial to the community in providing more adequate school facilities.
8. The USE and location is in harmony with the Comprehensive Plan.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to any required State or Federal Permits.
2. Subject to any required Building Permit from the Warrick County Building Department.
3. Subject to the property being in compliance at all times with the applicable zoning ordinance of Warrick County.
4. Subject to all public utility easements and facilities in place.
5. Subject to Drainage Board approval from the Warrick County Drainage Board.
6. Subject to approval and conditions of Commercial Driveway Permits.
7. Subject to Article V Section 6.
8. Subject to 18 month extension to the additional 1 year allowed for Special Uses approvals to be completely established.

Attorney Fields stated Section 6 was discontinuance of use and it's a one year date however the general provisions provide that when any provision of this article poses a more stringent requirement. He stated if the Board looks in the time limit section in section 3, it basically says that any variance or special use or Improvement Location Permit granted pursuant to the provisions of this article shall become null and void if the proposed construction or contemplated use is not commenced within six months. He stated it is stricter so he thinks that would control it. He stated if they commence construction within six months then they don't have a problem. He stated that would be his interpretation.

Attorney Neff stated his interpretation of that would be that construction start within six months.

Attorney Fields asked if that helps the School Corporation any.

Attorney Neff stated it is getting close.

Mr. Mottley asked if they would be more comfortable with the 18 months in addition to the 12 months.

Attorney Neff asked if he can have both. He stated the 18 months would be better. He stated if they comply with the six months, they're already there, but if they don't they've got the 18 months as a back up.

Attorney Fields stated that would give them 30 months total.

Duane Erwin seconded and the motion unanimously carried.

Mr. McCune asked what the capacity is going to be of that school.

Attorney Neff stated anticipated enrollment initially is going to be 700-750 students. He stated the capacity is going to be 900.

Mr. McCune asked what the high school is.

Attorney Neff stated approximately 1800.

#### **OTHER BUSINESS:**

Mrs. Rector stated he would like to thank Attorney Fields for coming and filling in for Attorney Doll.

#### **ATTORNEY BUSINESS:**

Attorney Fields stated he does have another update for the Board about the lawsuit that is currently pending involving the Board of Zoning Appeals by Monte Williams. He stated that is set for a hearing on a motion to dismiss on November 13<sup>th</sup> at 2pm. He stated he's assuming it will be in circuit court.

Mr. Willis stated he appreciates him sitting in for Attorney Doll.

**EXECUTIVE DIRECTOR BUSINESS:**

None.

There being no other business Larry Willis entertained a motion to adjourn the meeting.

Duane Erwin made a motion to adjourn. William McCune seconded and the motion unanimously carried.

The meeting adjourned at 7:35 pm.

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Larry Willis, Chairman

**ATTEST:**

The undersigned Secretary of the Warrick County Area Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held October 24, 2007.

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Sherri Rector, Executive Director & Secretary